

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANTON WALKER AND SEAN WALKER

14 CV 10005

Plaintiffs,

**COMPLAINT**

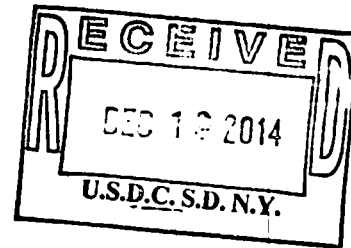
-against-

**JUDGE FAILLA**

**JURY TRIAL**

THE CITY OF NEW YORK, P.O. GENE DOLCE,  
and P.O.s "JOHN DOE" #1-10,

Defendants.  
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Plaintiffs, by their attorneys, DANIEL CRUPAIN and the PAWAR LAW GROUP  
complaining of the Defendants, upon information and belief, respectfully allege as follows:

**PRELIMINARY STATEMENT**

1. Plaintiffs bring this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S.C. §§ 1981, 1983 and 1988 for violations of their civil rights, secured by the said statutes and the Constitutions of the State of New York and of the United States.

**JURISDICTION**

2. This action is brought pursuant to 42 U.S.C. §§ 1981, 1983 and 1988, and the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343.

**VENUE**

3. Venue is properly laid in the Southern District of New York under 28 U.S.C. § 1391(b), as the District in which the claims arose.

**JURY DEMAND**

4. Plaintiffs respectfully demand a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

**PARTIES**

5. Plaintiffs at all relevant times were residents of the City and State of New York.

6. Defendant, THE CITY OF NEW YORK, was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York, and maintains the New York City Police Department, a duly authorized Public Authority and Police Department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, THE CITY OF NEW YORK.

7. At all times hereinafter mentioned, the individually named defendant, P.O. GENE DOLCE, and P.O.s "JOHN DOE" #1-10, were duly sworn police officers of said New York City Police Department and were acting under the supervision of the said department and in accordance with their official duties and within the scope of their employment.

8. At all times hereinafter mentioned, all of the Defendants, either personally or their employees, were acting under color of state law and in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York and the City of New York.

### FACTS

9. On or about September 13, 2012, at approximately 11:30 PM, Plaintiffs, ANTON WALKER and SEAN WALKER who are brothers were going home in a vehicle being driven by ANTON WALKER, with SEAN WALKER seated beside him came to a lawful stop at a red light. While stopped at the light the vehicle was approached by two police officers one of which was the defendant PO Gene Dolce.

10 Defendants reached in to the vehicle and took the keys out of the ignition and searched the occupants without consent or probable cause.

11. During their search, defendants ripped apart the inside of the vehicle.

12. The plaintiffs were thereafter forcefully removed from the scene, falsely imprisoned, detained and formally arrested and falsely charged with the possession of marijuana and thereafter maliciously prosecuted until the charges were dismissed by the District Attorney's Office. The charges were dismissed against Sean Walker on 1/22/13 and against Anton Walker on 4/30/14.

13. At the time of their arrests, Plaintiffs were not engaged in unlawful or suspicious activity, and despite the absence of any evidence of wrongdoing on the part of the Plaintiffs, the Defendants effected the arrest of both of the Plaintiffs.

14. As a result of the foregoing, plaintiffs sustained, *inter alia*, loss of liberty and the deprivation of their constitutional rights.

15. Plaintiffs, 2 African American male brothers, were in a vehicle lawfully stopped at a red traffic light when they had their constitutional rights violated by 2 New York City Caucasian police officers.

**AS AND FOR A FIRST CAUSE OF ACTION  
42 U.S.C. § 1981**

16. Plaintiffs repeat, reiterate and re-allege each and every allegation contained in paragraphs numbered "1" through "15" with the same force and effect as if fully set forth herein.

17. Plaintiffs are members of a minority racial group.

18. Defendants discriminated against plaintiffs by depriving them of rights, privileges, equal protection and immunities guaranteed to citizens of the United States by the First and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1981.

19. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with all the actual and/or apparent authority attendant thereto.

**AS AND FOR A SECOND CAUSE OF ACTION  
FALSE ARREST**

20. Plaintiffs repeat, reiterate and reallege each and every allegation contained in foregoing paragraphs as if fully set forth herein.

21. As a result of Defendants' aforementioned conduct, each of the Plaintiffs were subjected to an illegal, improper and false arrest by the Defendants and taken into custody and caused to be falsely imprisoned, detained, confined, incarcerated and without any probable cause, privilege or consent, and in violation of their rights under the Fourth and Fourteenth Amendments.

23. As a result of the foregoing, the Plaintiffs' liberty was restricted for an extended

period of time, and they were put in fear for their safety, humiliated and subjected to handcuffing, and other physical restraints, without probable cause.

**AS AND FOR A THIRD CAUSE OF ACTION  
DENIAL OF RIGHT TO FAIR TRIAL**

24. Plaintiffs repeat, reiterate and reallege each and every allegation contained in foregoing paragraphs as if fully set forth herein.

25. Defendants created false evidence against plaintiffs.

26. Defendants forwarded false evidence and false information to prosecutors in the District Attorney's office.

27. In creating false and information to prosecutors, Defendants violated Plaintiffs' constitutional rights under the Due Process Clause of the Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

28. As a result of the foregoing, Plaintiffs' liberty was restricted for an undue period of time, and they were was put in fear for their safety, humiliated and subjected to handcuffing, and other physical restraints, without probable cause, and were maliciously prosecuted.

**AS AND FOR A FOURTH CAUSE OF ACTION  
MALICIOUS PROSECUTION**

29. Plaintiffs repeat, reiterate and reallege each and every allegation contained in foregoing paragraphs as if fully set forth herein.

30. Defendants misrepresented and falsified evidence before the District Attorney.

31. Defendants did not make a complete and full statement of facts to the District Attorney.

32. Defendants withheld exculpatory evidence from the District Attorney.

33. Defendants were directly and actively involved in the initiation of criminal proceedings against plaintiffs ANTON WALKER and SEAN WALKER.

34. Defendants lacked probable cause to initiate criminal proceedings against plaintiffs ANTON WALKER and SEAN WALKER.

35. Defendants acted with malice in initiating criminal proceedings against plaintiffs ANTON WALKER and SEAN WALKER.

36. Defendants were directly and actively involved in the continuation of criminal proceedings against plaintiffs ANTON WALKER and SEAN WALKER.

37. Defendants lacked probable cause to continue criminal proceedings against plaintiffs ANTON WALKER and SEAN WALKER.

38. Defendants acted with malice in continuing criminal proceedings against plaintiffs ANTON WALKER and SEAN WALKER.

39. Defendants misrepresented and falsified evidence throughout all phases of the criminal proceedings.

40. Notwithstanding the perjurious and fraudulent conduct of defendants, the criminal proceedings were terminated in plaintiffs ANTON WALKER and SEAN WALKER favor on or about aforesaid dates, when all charges against them were dismissed.

41. Plaintiffs were maliciously prosecuted by the defendants and the charges were favorably terminated by the aforesaid dismissals, as a result of which plaintiffs sustained damages.

**AS AND FOR A FIFTH CAUSE OF ACTION  
MUNICIPAL LIABILITY UNDER MONELL**

42. Plaintiffs repeat, reiterate and reallege each and every allegation contained in foregoing paragraphs as if fully set forth herein.

43. Defendants, New York City Police officers, arrested and incarcerated Plaintiffs in the absence of any evidence of criminal wrongdoing, notwithstanding their knowledge that said arrest and incarceration would jeopardize plaintiff's liberty, well-being, safety and constitutional rights.

44. The acts complained of were carried out by the aforesaid individual Defendants in their capacities as New York City police officers and officials, with all the actual and/or apparent authority attendant thereto.

45. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers and officials pursuant to the customs, policies, usages, practices, procedures, and rules of THE CITY OF NEW YORK and the New York City Police Department, all under the supervision of ranking officers of said department.

46. The aforementioned customs, policies, usages, practices, procedures and rules of THE CITY OF NEW YORK and the New York City Police Department include, but are not limited to, the following unconstitutional practices:

- a) arresting individuals regardless of probable cause in order to inflate the officer's arrest statistics;
- b) arresting innocent persons notwithstanding the existence of credible evidence which exonerates the accused of any criminal wrongdoing.

47. The foregoing customs, policies, usages, practices, procedures and rules of THE CITY OF NEW YORK and the New York City Police Department constituted a deliberate indifference to the safety, well-being and constitutional rights of Plaintiffs.

48. The foregoing customs, policies, usages, practices, procedures and rules of THE CITY OF NEW YORK and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by Plaintiffs as alleged herein.

49. The foregoing customs, policies, usages, practices, procedures and rules of THE CITY OF NEW YORK and the New York City Police Department were the moving force behind the constitutional violations suffered by Plaintiffs as alleged herein.

50. As a result of the foregoing customs, policies, usages, practices, procedures and Rules of THE CITY OF NEW YORK and the New York City Police Department, Plaintiffs were incarcerated unlawfully.

51. Defendants, collectively and individually, while acting under color of state law, Were directly and actively involved in violating the constitutional rights of Plaintiffs.

52. Defendants, collectively and individually, while acting under color of state law, acquiesced in a pattern of unconstitutional conduct by subordinate police officers, and were directly responsible for the violation of plaintiffs' constitutional rights.

53. All of the foregoing acts by Defendants deprived Plaintiffs of federally protected rights, including, but not limited to, the right:


1. Not to be deprived of liberty without due process of law;
2. To be free from seizure and arrest not based upon probable cause;
3. To be free from unwarranted and malicious criminal prosecution;




4. Not to have cruel and unusual punishment imposed upon him; and
5. To receive equal protection under the law.

**WHEREFORE,** Plaintiffs ANTON WALKER AND SEANWALKER, each demand judgment against the Defendants in the sum of one hundred thousand dollars (\$100,000.00) for each plaintiff for each cause of action, punitive damages to be determined by a jury, attorney's fees, and the costs and disbursements of this action.

Dated: New York, New York  
December 8, 2014

  
By: ~~Vik Pawar~~  
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